THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.26266/1995

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P.Ram Gopal Reddy ..Petitioner

V.

1. The District Collector, Ranga Reddy District at Hyderabad and others. ..Respondents.

THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.26266/1995

ORAL ORDER

A memo dt. 11-11-1995 issued by the Mandal Revenue Officer, Yalal Mandal, Ranga Reddy District directing the petitioner not to interfere with the peaceful possession of the land of the third respondent, namely, S.No.194/ ad-measuring Ac.0-36 guntas, 199/ Ac.4-28 guntas and 1-201/ ad-measuring Ac.9-30 guntas situate at Akkampally village and enjoyment of the same, including rabi crop crased, challenged in the present writ petition.

The facts, which are not in dispute, are as follows: The third respondent filed suit OS No.99/1987 before the Munsif Magistrate Court (now designated as Junior Civil Judge's Court) at Tandur against Vittal Rao S/o Saibanna for cancellation of registered sale deed No.213/77 dt. 23-2-1977 of Sub-Registrar, Tandur, which was executed by Smt. Balakistamma, third respondent in favour of Vittal Rao and the said suit was decreed in

favour of the third respondent. By cancelling the sale transaction effected through the above said sale deed, and when the petitioner's possession sought to be disturbed, he (petitioner) filed OS No.48/1993 on the file of Subordinate Judge, (now designated as Senior Civil Judge) Vikarabad for declaration of title and also for declaration that the judgment and decree passed in OS No.99/1987 is not binding on the petitioner, which is pending disposal. While so, the Collector, Ranga Reddy District in his letter PMC No.3608/95 dt. 24-8-1995 instructed the Mandal Revenue Officer to hand over possession of the land to the third respondent. In the counter, it is stated that as per the said proceedings, Mandal Revenue Officer handed over possession of the said land to the third respondent and accordingly the impugned memo dt. 11-11-1995 was also issued to the petitioner not to interfere with the possession of the property of the third respondent.

It is not known under what authority, the Collector instructed the Mandal Revenue Officer to protect the possession of land of the third respondent when the matter is ceased by the civil court in OS No.48/1993 on the file of Senior Civil Judge, at Vikarabad. Even assuming, the third respondent obtained decree of cancellation of sale deed and for recovery of possession, if any, it is for the civil court to execute the decree obtained by the third respondent, but the Collector cannot issue such instructions in the absence of a decree to the said effect. Moreover, interim suspension granted by this court on 4-12-1995 has not sought to be vacated by the third and fourth respondent by filing vacate stay petitions and they did not bother to contest the matter by filing counters.

In view of the same, the impugned memo dt. 11-11-1995 issued by the Mandal Revenue Officer basing on the instructions issued by the Collector, Ranga Reddy District, who has no authority to issue such instructions, is without any authority and the same is liable to be set-aside and it is accordingly set-aside.

The writ petition is accordingly allowed. No costs.

18-3-2006

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